

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS (13 CCR), DIVISION 2, CHAPTER 6.5,
AMEND ARTICLE 1, SECTIONS 1202.1 AND 1202.2, AND ARTICLE 6, SECTION 1232.

MOTOR CARRIER SAFETY REGULATIONS - CONSISTENCY WITH TITLE 49, CODE OF FEDERAL REGULATIONS (CHP-R-03-16)

PURPOSE OF REGULATORY ACTION

California Vehicle Code (CVC) Section 2402 authorizes the Commissioner of the California Highway Patrol to make and enforce regulations as necessary to carry out the duties of the California Highway Patrol. Sections 32002, 34501, 34501.2, and 34501.5 CVC authorize the California Highway Patrol to adopt reasonable rules and regulations which are designed to promote the safe operation of vehicles described in Section 34500 CVC, which are commercial vehicles commonly referred to as “regulated” vehicles (trucks, truck-trailer combinations, buses, etc.). The adopted regulations are contained in Title 13, California Code of Regulations (13 CCR).

This rulemaking action adopts the current publishing date of federal regulations incorporated by reference to take full advantage of the changes resulting from public input during a recent federal regulatory review. This rulemaking action will eliminate state regulations that conflict with updated federal regulations in Title 49, Code of Federal Regulations (49 CFR), thereby allowing California businesses to compete with out-of-state businesses under identical safety rules. This will eliminate the possibility of California businesses being required to follow out-of-date federal regulations for their intrastate operations, but to switch to current federal regulations when operating in interstate commerce. Additionally, these businesses will no longer need to retain multiple publishing dates of federal regulations for the purpose of determining compliance with California regulations.

SECTION BY SECTION OVERVIEW

Article 1. Definitions and General Provisions.

Section 1202.1. Applicability of Federal Regulations.

The proposed regulatory amendments incorporate by reference the October 1, 2002, edition of 49 CFR, providing uniformity between state and federal transportation regulations.

Section 1202.2. Applicability of Federal Regulations.

The proposed regulatory amendments incorporate by reference the October 1, 2002, edition of 49 CFR, providing uniformity between state and federal transportation regulations.

Article 6. Carrier Requirements.

Section 1232. Vehicle Inspection and Maintenance.

The proposed regulatory amendments incorporate by reference the October 1, 2002, edition of 49 CFR, regarding qualifications of airbrake inspectors. No changes have occurred on this matter in the federal regulations since October 1, 1997, but absent this change in the equivalent California regulation, motor carriers would need to retain their 1997 editions of the federal regulations solely to read this reference.

STUDIES/RELATED FACTS

None.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The California Highway Patrol has not identified any significant adverse impact on businesses since these changes either maintain reasonable exceptions for carriers not directly subject to federal jurisdiction (to minimize the impact on business) or they simply adopt federal regulations, by publishing date, that already apply to the majority of the regulated community, thereby eliminating a conflict between state and federal regulations.

ALTERNATIVES

The California Highway Patrol has not identified any alternative, including the no action alternative, that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the California Highway Patrol has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

Alternatives Identified and Reviewed

1. Amend the existing regulations for consistency with the federal regulations.

2. Change statutes to directly require compliance with federal motor carrier safety regulations as these regulations now exist or are hereafter amended, in lieu of the existing delegation of rulemaking prescribed in Section 34501(b) CVC. This alternative would eliminate the present state regulatory mechanism which provides for the adoption of exceptions to the Federal Motor Carrier Safety Regulations presently adopted by reference in 13 CCR. The California Highway Patrol also retains discretion to promulgate regulations and/or exceptions for carriers not subject to federal jurisdiction (i.e., non-commercial or governmental).
3. Make no changes to the existing regulations. This could result in federal preemption of California's Motor Carrier Safety Regulations. If preempted, the state could not enforce any of these regulations as they apply to transportation in commerce, thus jeopardizing public safety and environmental protection. Failure to maintain consistency with the Federal Motor Carrier Safety Regulations would also jeopardize federal Motor Carrier Safety Assistance Program grants used for commercial vehicle enforcement and training. The loss of all or a portion of this funding would in itself represent a negative impact on public safety.

ECONOMIC IMPACT

The Department has determined these regulatory amendments will result in:

- No significant increased costs for motor carriers directly subject to federal jurisdiction. This rulemaking action will simply allow the state to enforce federal regulations that already apply, but are enforced currently only by federal inspectors who in some cases apply more severe federal penalties.
- No significant compliance cost for persons or businesses directly affected.
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public.
- No impact on the level of employment in the state.
- No adverse impact on the competitiveness of this state to retain businesses, as the majority of other states (especially neighboring) have already adopted these or similar requirements.